

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration (NOAA)

## 50 CFR Part 679

[Docket No. 001108316-0316-01; I.D. 060600B]

RIN 0648-AK50

## Fisheries of the Exclusive Economic Zone Off Alaska; Improved Individual Fishing Quota Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to amend regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off Alaska. NMFS has identified parts of the program that need further refinement or correction for effective management of the affected fixed gear fisheries. This action is intended to effect those refinements and is necessary to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) with respect to the IFQ fisheries.

**DATES:** Comments must be received by January 16, 2001.

**ADDRESSES:** Comments must be sent to Sue Salvesson, Assistant Administrator for the Sustainable Fisheries Division, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of the Regulatory Impact Review may be obtained from the same address. Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to the Administrator, Alaska Region, P.O. Box 21668, Juneau, AK, 99802-1668.

**FOR FURTHER INFORMATION CONTACT:** James Hale, 907-586-7228.

**SUPPLEMENTARY INFORMATION:****Background**

Regulations codified at 50 Part CFR 679 implement the IFQ Program, a limited access system for management of the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in and off Alaska, under the authority of the Northern Pacific Halibut Act (Halibut Act) with respect to halibut and the Magnuson-Stevens Act with respect to sablefish. Further information on the

rationale for and implementation of the IFQ Program is contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375).

NMFS' continuing assessment of the IFQ Program's responsiveness to conservation and management goals for Pacific halibut and sablefish fisheries has produced two "omnibus" packages of IFQ regulatory reforms since the inception of the program (60 FR 22307, May 5, 1995; 61 FR 41523, August 9, 1996). This proposed action, the third such "omnibus" package of regulatory changes to the IFQ Program, would amend various portions of the program's implementing regulations that require further refinement. These changes are necessary: To promote the ability of fishermen to conduct efficient IFQ fishing operations, while complying with IFQ Program requirements; to improve NMFS' ability to efficiently administer the program; and to improve the clarity and consistency of IFQ Program regulations.

This proposed action would make the following changes to the IFQ Program: (1) In § 679.1 *Purpose and scope*, add explicit reference to the Northern Pacific Halibut Act (Halibut Act), under which regulations in this part regarding the Pacific halibut fishery were developed, and in § 679.1(d) revise "IFQ management plan" to read "IFQ management measures" to prevent any inference that the IFQ Program is itself a "fishery management plan" as that term is used in the Magnuson-Stevens Act; (2) clarify the requirements for IFQ fishermen participating in open access sablefish fisheries in Alaska State waters; (3) revise nomenclature to reflect organizational changes in NMFS' Restricted Access Management (RAM) division; (4) revise the definition of an IFQ landing to include vessels that are removed from the water and put on trailers; (5) delete the reference to an "accompanying statement" establishing IFQ balances; (6) exempt lingcod fishermen using dinglebar gear from the IFQ 6-hour prior notice of landing and 12-hour landing window requirements; (7) add gear type to information required on a completed IFQ landing report; (8) clarify which registered buyer, in landings involving multiple registered buyers, is responsible for compliance with shipment report requirements; (9) make minor corrections to errors arising from the consolidation of regulations; (10) modify the existing survivorship transfer provisions to allow for the temporary transfer of a deceased QS holder's QS and IFQ to a designated

beneficiary, and revise a paragraph on an IFQ leasing provision that expired in 1998; (11) require annual updates on the status of corporations and partnerships; (12) allow the electronic submission of appeals to initial administrative decisions; and (13) clarify reporting requirements for purposes of the Paperwork Reduction Act. A discussion of and justification for each of the proposed measures follows.

*Referencing the Halibut Act in § 679.1, Purpose and scope*

The IFQ Program is a limited access system for two separate fisheries: (1) The fixed gear sablefish fishery, which NMFS manages under the authority of the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs), and (2) the Pacific halibut fishery, which NMFS manages under the authority of the Halibut Act. In § 679.1, *Purpose and scope*, an explicit reference to the Halibut Act as the authorizing statute for regulations in part 679 pertaining to halibut would be added. Further, the reference to "IFQ management plan" at § 679.1(d) would be revised to read "IFQ management measures" to prevent the inference that the IFQ Program is itself a "fishery management plan" as that term is used in the Magnuson-Stevens Act.

*IFQ Fishermen and Open Access Sablefish Fisheries in Alaska State Waters*

Section 679.1(d)(1)(i)(B) identifies vessels required to observe IFQ regulations when participating in such fisheries as vessels on which "such fishing is conducted by persons who have been issued permits under § 679.4." For clarity, the citation to § 679.4 would be replaced by descriptions of such permits: sablefish QS and IFQ permits, and sablefish IFQ cards. Section 679.1(d)(1)(i)(B) also would be revised to read "persons who hold" rather than "persons who have been issued" such permits. The current language could be read to require IFQ sablefish fishermen who have been issued such permits at any time in the past to comply with all IFQ regulations when participating in an open access sablefish fishery in Alaska State waters. The regulation was not intended to affect the activities of fishermen who have participated in the IFQ Program in the past but have since divested themselves of all QS or IFQ holdings. As revised, the paragraph would pertain only to those fishermen who currently hold sablefish QS or IFQ or who are

current participants in the program as sablefish IFQ cardholders or hired skippers.

#### *Nomenclature Change*

To comport with organizational changes within NMFS, the definition of "Chief, RAM Division" in § 679.2 *Definitions* would be changed to read "Program Administrator RAM, means the Program Administrator of Restricted Access Management, Alaska Region, NMFS." All subsequent references to "Chief, RAM Division" in 50 CFR 679 also would be revised to read "Program Administrator, RAM."

#### *Trailing of Vessels*

As defined in § 679.2, the term "IFQ landing" does not include the "trailing" of vessels (i.e., removing a vessel from the water, loading the vessel onto a trailer, and conveying it elsewhere other than dockside for the offloading of IFQ harvests and production of an IFQ landing report). Such practices inhibit NMFS' ability to monitor IFQ landings to ensure proper accounting of harvests against IFQ balances. Therefore, the definition of an IFQ landing—"the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish"—would be revised to include "the removal from the water of a vessel carrying any IFQ halibut, IFQ sablefish, or products thereof."

#### **Accompanying Statement**

The reference to "the most recent accompanying statement specifying the amount of each species that may be harvested during the current IFQ fishing season" would be deleted from § 679.4(d)(1)(i). While such an accompanying statement was originally projected as part of the IFQ permit, NMFS currently issues no such accompanying statement, because the IFQ card itself is sufficient to establish a fisherman's IFQ balance.

#### **Delivery of IFQ Halibut Bycatch by Lingcod Fishermen Using Dinglebar Gear**

Lingcod dinglebar fishermen who hold halibut IFQ are required to keep and offload any halibut bycatch incidental to lingcod harvests. Consequently, such lingcod fishermen who take small amounts of halibut bycatch must comply with the IFQ Program's 6-hour prior notice of landing and 12-hour landing window requirements before they can offload their lingcod harvests.

Because these requirements may contribute to the illegal discard of IFQ

halibut bycatch in the lingcod dinglebar fishery, NMFS believes lingcod fishermen should be exempted from the 6-hour prior notice requirement and the 12-hour landing window when landing 500 lb (0.227 metric tons (mt)) or less of IFQ halibut bycatch concurrently with legal lingcod landings harvested with dinglebar gear. IFQ landing reports for such landings would still be required as currently prescribed. NMFS believes that 500 lbs (0.227 mt) is large enough to cover halibut bycatch in the lingcod dinglebar fishery but not so large as to jeopardize the effective monitoring of IFQ landings.

To effect this exemption, paragraph 679.5(l)(1)(iv) and (2)(iv)(A)(2) would be revised to exempt lingcod fishermen, and a definition of the term "dinglebar gear" would be added to the definitions of authorized fishing gear in § 679.2. "Dinglebar gear" would be defined to mean "one or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way." The definition of the term "troll gear" would also be amended to include dinglebar gear.

#### *Information on Gear Type in Landing Report*

Paragraph 679.5(l)(2)(vi) would be revised to add gear type to information required on a completed IFQ landing report. NMFS needs to be apprised of gear type used in making landings of IFQ species to effectively manage the IFQ Program, which is limited to fixed gear. Also, certain exemptions from IFQ recordkeeping and reporting requirements are based on gear-type and require that NMFS be able to determine at the time of landing the gear type used to harvest IFQ species. For instance, salmon fishermen, who typically use troll gear, are exempt from the prior notice of landing and 12-hour landing window when landing 500 lb (0.227 mt) or less of halibut bycatch with legal salmon landings. Also, as discussed earlier, rulemaking would extend a similar exemption to lingcod fishermen using dinglebar gear. NMFS needs to be provided with information on gear type in IFQ landing reports for purposes of distinguishing such exempted landings from potential violations of IFQ recordkeeping and reporting requirements.

#### *Registered Buyer Responsible for Shipment Report*

Paragraph 679.5(l)(3)(i)(A) would be revised to specify, for IFQ landings that involve more than one registered buyer,

which registered buyer is responsible for ensuring compliance with shipment report requirements. Paragraph 679.5(l)(3)(ii) would be revised to specify that by signing an IFQ Landing Report and thereby taking responsibility for an IFQ Landing, a registered buyer also assumes responsibility for completing and submitting to NMFS all shipment reports for IFQ harvests landed under that landing report. Current regulations do not sufficiently assign responsibility for proper compliance with shipment report regulations, and other persons who hold registered buyer permits may be involved in a landing but not in the shipping of IFQ harvests from the point of landing to other destinations. This proposed change would assign the responsibility for compliance with shipment report requirements to the registered buyer who signs the IFQ landing report for those harvests being shipped.

#### *Prohibitions*

The general prohibition at § 679.7(f)(14) would be revised to prohibit the violation of any provision of the IFQ and Community Development Quota (CDQ) regulations incorporated into §§ 679.4 *Permits*, 679.5 *Recordkeeping and reporting*, and subparts C and D of 50 CFR part 679. Prior to the consolidation of the regulations governing fisheries in the exclusive economic zone off Alaska into 50 CFR part 679, which was required by the President's Regulatory Reform Initiative (61 FR 31228, June 19, 1996), all IFQ and CDQ regulations were in a single subpart. The general prohibition formerly referred to this subpart. With the consolidation of regulations, IFQ and CDQ regulations pertaining to permits and to recordkeeping and reporting were catalogued under subparts dealing separately with those respective subjects. Section 679.7(f)(14) would be revised to refer again to all regulations pertaining to the IFQ and CDQ programs.

#### **Expanding Survivorship Transfer Provisions**

Paragraph 679.41(k)(2) would be revised to expand the existing survivorship transfer provisions to include a family member designated as a beneficiary to whom the survivorship transfer privileges would extend in the absence of a surviving spouse. The IFQ Program restricts the transfer of category B, C, or D quota share (QS) and resulting IFQ to prevent excessive consolidation of QS and ensure that QS continues to be held by professional fishermen, rather than being acquired by

investment speculators. In 1996, NMFS amended the regulations to allow for a temporary transfer of QS to surviving spouses of deceased QS holders (61 FR 41523; August 9, 1996). Under this provision, upon the death of an individual who holds QS or IFQ, a surviving spouse may request to receive for 3 years all QS and IFQ held by the decedent, unless a contrary intent was expressed in a will that is probated. This provision was consistent with the Council's intent for the IFQ Program, as evidenced by sections 14.4.7.1.4(5) and 4.4.1.1.4(5), respectively, of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs), which state:

The Secretary may, by regulation, designate exceptions to [the transfer provisions] to be employed in cases of personal injury or extreme personal emergency which allows the transfer of [IFQ resulting from QS assigned to vessel categories B, C, or D] for limited periods of time.

In June 1997, the Council recommended that the transfer privileges be extended to any heirs of the deceased, so that other members of a deceased QS holder's immediate family may benefit for a certain period of time from the deceased's commercial fishing interests with regard to the IFQ Program. NMFS subsequently published a proposed rule to implement the Council's recommendation in the **Federal Register** on November 6, 1997 (62 FR 60060). Following the publication of this proposed rule and upon further analysis, NMFS recognized that the proposed action would not provide transfer privileges for an emergency situation and would require an FMP amendment not authorized by the Council. Therefore, NMFS withdrew the proposed rule by publishing a notice to that effect in the **Federal Register** (63 FR 13161, March 18, 1998), which provides further explanation of the rationale for the withdrawal of the rule. Upon the withdrawal of the proposed rule, the Council requested that the analysis be amended with a new alternative that would effect the intent of the proposed action—to extend the benefit of the surviving spouse privilege to families of deceased QS holders who have no surviving spouse—in a manner consistent with the FMPs' emergency transfer provisions.

This proposed action would allow QS holders to provide NMFS with the name of an immediate family member to be the beneficiary of the survivorship transfer privileges in the absence of a surviving spouse. The designated

beneficiary would be granted the ability to fish or to transfer the deceased QS holder's IFQ for the remainder of any current IFQ season and to fish or transfer the total annual allocations of IFQ deriving from the deceased QS holder's QS by right of survivorship for a period of 3 years from the date of the deceased QS holder's death or until the QS is awarded to a legal heir, whichever comes first.

This action also would correct an erroneous citation in the regulations implementing the survivorship transfer privilege at § 679.41(k)(2). The survivorship transfer provisions exempt those who receive emergency transfers of a deceased QS holder's QS from the prohibition on leasing of IFQ derived from B, C, or D category QS. The citation is intended to refer to the leasing prohibition, which stands at § 679.41(h)(2). The existing citation would be revised to cite the correct paragraph. Also, the paragraph cited, 679.41(h)(2), prohibits leasing of more than 10-percent of a QS holder's total annual IFQ. That 10 percent leasing provision expired on January 2, 1998, after which date a QS holder may not transfer any IFQ resulting from B, C, or D category QS separately from the originating QS. Therefore, § 679.41(h)(2) would be revised to read: "IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section."

#### **Annual Updates on the Status of Corporations and Partnerships**

A paragraph (5) would be added to § 679.42(j) requiring corporations and partnerships holding QS to provide annual updates to NMFS/Restricted Access Management on the status of the corporation or partnership identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership. Current IFQ regulations require collectively held QS to be transferred to a qualified individual upon any change in a corporation or partnership. Corporations or partnerships that have been issued QS but have either been dissolved or have acquired additional shareholders or partners are not eligible to fish the IFQ resulting from that QS. To ensure that such corporations and partnerships are not erroneously issued annual IFQ resulting from the collectively held QS, they would be required to provide the updates.

#### *Electronic Submission of Appeals*

Paragraph 679.43(c) would be revised to allow facsimile submission of appeals

of initial administrative determinations made to the Office of Administrative Appeals. Current regulations that prohibit the filing of appeals by facsimile unnecessarily inhibit the transmission of timely appeals and would therefore be removed. Also, the address to which appeals must be sent would be changed from the Regional Administrator's office to the Office of Administrative Appeals.

#### *Information Requirements*

The regulations pertaining to certain IFQ forms and reports would be revised to clearly identify all of the data elements required of the public in these collections of information. Such clarification is necessary to assure that all collections of information for the IFQ Program are authorized by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995. The pertinent collections of information are: (1) the Request for QS Application at 50 CFR 679.40(a)(6)(i); (2) the IFQ Landing Report at 50 CFR 679.5(l)(2); (3) the IFQ Vessel Clearance Report at 679.5(l)(5)(i); (4) the IFQ Transshipment Authorization Request at 679.5(l)(4); and (5) the Corporation Eligibility Notice at 679.43(c).

#### **Classification**

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains collection-of-information requirements subject to the PRA. These requirements are either new or revisions to collection-of-information requirement approved by OMB under OMB control number 0648-0272. These requirements have been submitted to OMB for approval. Public reporting burden per response for these collections of information is estimated to average as follows: 0.5 hours for individuals and 1 hour for corporations or partnership filling out a Request for QS Application; 0.2 hours for an IFQ landing report; 0.2 hours for an IFQ vessel clearance report; 2 hours for the identification of ownership interest form; 0.3 hours for an IFQ shipment report; 0.2 hours for an IFQ transshipment authorization request; 0.5 hours for the Designated Beneficiary form; 2 hours for the Application for

Transfer of QS/IFQ; and 4 hours for the Letter of Appeal, including in all cases the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are invited on (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through use of automated collection techniques or other forms of information technology. Send comments on these or other aspects of the information collections to NMFS (see ADDRESSES) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

NMFS prepared an initial regulatory flexibility analysis to describe this proposed rule's economic effects on small entities. This proposed action would impact all QS holders in the IFQ Program, as well as seafood processors and transporters. The majority of catcher vessels harvesting IFQ halibut and IFQ sablefish meet the definition of a small entity under the RFA. As of the end of the 1998 IFQ season, 3,795 persons held halibut QS and 919 held sablefish QS. Persons who buy IFQ harvests from IFQ fishermen must possess Registered Buyers permits, and as of the end of the 1998 season, Registered Buyer permits were held by 859 businesses, including restaurants, processors, retailers, brokers, tenders, and catcher/processors. In addition, families of deceased QS holders would be impacted beneficially by the proposed extension of temporary transfer privileges to other surviving members of a deceased QS's family in addition to surviving spouses.

This proposed action comprises only minor regulatory changes, adjustments, clarifications, and corrections necessary to refine NMFS' ability to manage the program effectively and to improve the clarity and consistency of the program's implementing regulations. Seven of the proposed changes are intended to clarify aspects of the regulations and would impose little change in the way small businesses conduct their businesses under the IFQ Program, except to avoid

any potential confusion due to inexact regulatory language.

The other six changes contained in this proposed action may have greater impact on small businesses operating under the IFQ Program, but these impacts too would either be beneficial or impose relatively minor changes in recordkeeping and reporting requirements. Changes in the program's collection-of-information requirements have been discussed above.

These changes are expected to have minimal economic impacts on small entities. NMFS has not identified alternatives that would further minimize these impacts.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be addressed to the Alaska Regional Administrator (see ADDRESSES).

#### List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: December 6, 2000

William T. Hogarth

Deputy Asst. Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773, *et seq.*

2. In part 679, all references to "Chief, RAM Division" are removed and "Program Administrator, RAM" is added in its place.

3. In § 679.1, the first sentence of the introductory paragraph, the introductory text to paragraph (d), and paragraph (d)(1)(i)(B) are revised to read as follows:

##### § 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. \* \* \*

(d) *IFQ Program for sablefish and halibut.* The IFQ management measures for the commercial fisheries that use

fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) \* \* \*

(i) \* \* \*

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, Individual Fishing Quota permits, or Individual Fishing Quota cards.

\* \* \* \* \*

4. In § 679.2, the definition of "Chief, RAM Division" is removed, the definition of "IFQ landing" is revised, the definition of "Program Administrator, RAM" is added, and, under the definition of "Authorized fishing gear", paragraphs (1) through (15) are redesignated as paragraphs (2) through (16), newly designated paragraph (16) is revised, and a new paragraph (1) is added to read as follows:

##### § 679.2 Definitions.

\* \* \* \* \*

*Authorized fishing gear* \* \* \*

(1) *Dinglebar gear* means one or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

\* \* \* \* \*

(16) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear and dinglebar gear.

\* \* \* \* \*

*IFQ landing* means the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish or the removal from the water of a vessel containing IFQ halibut, IFQ sablefish, or products thereof.

\* \* \* \* \*

*Program Administrator, RAM* means the Program Administrator of Restricted Access Management Program, Alaska Region, NMFS.

\* \* \* \* \*

5. In § 679.4, paragraph (d)(1)(i) is revised to read as follows:

##### § 679.4 Permits.

\* \* \* \* \*

(d) *IFQ*—(1) \* \* \*

(i) *IFQ permit.* A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ

halibut or IFQ sablefish may be harvested by the IFQ permit holder; and

6. In § 679.5(l), paragraphs (l)(1)(iv), (l)(2)(iv)(A)(2), (l)(2)(vi), (l)(3)(i)(A), (l)(3)(ii), (l)(4), and (l)(5)(i) are revised to read as follows:

§ 679.5 Recordkeeping and reporting.

(1) (i) Exemption. The operator of a category B, C, or D vessel, as defined at § 679.40(a)(5), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 679.42(c)(2) is exempt from the prior notice of landing required by this section when such landings of IFQ halibut are made concurrent with legal landings of lingcod harvested with dinglebar gear or with legal landings of salmon.

(2) IFQ halibut of 500 lb (0.227 mt) or less of IFQ weight determined pursuant to § 679.42(c)(2) is landed concurrently with a legal landing of lingcod harvested with dinglebar gear or a legal landing of salmon by a category B, C, or D vessel, as defined at § 679.40(a)(5).

(vi) Information required. The registered buyer must enter accurate information contained in a complete IFQ landing report as follows: Date, time, and location of the IFQ landing; name and permit number of the IFQ card holder and registered buyer; the harvesting vessel's ADF&G number; gear type reported by cardholder; the Alaska State fish ticket number(s) for the landing; the ADF&G statistical area of harvest reported by the IFQ cardholder; if ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ cardholder; for each ADF&G statistical area of harvest reported by the IFQ cardholder, the product code landed and initial accurate scale weight made at the time offloading commences for IFQ species sold and retained.

(3) (A) Complete a written shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish for which the Registered Buyer submitted a landing report before the fish leave the landing site.

(ii) Information required. A shipment report must specify the following:

Whether the report is a revised report; species and product type being shipped; number of shipping units and unit weight; fish product weight; names of the shipper and receiver; names and addresses of the consignee and consignor; mode of transportation; intended route; and signature of the responsible registered buyer's representative.

(4) Transshipment authorization. No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization must specify the date and location of the transshipment; names and ADF&G numbers of vessels delivering and receiving the transshipment; product destination; registered buyers' names and permit numbers; IFQ permit numbers; species, regulatory areas, product types and codes, number of units, and unit weight of IFQ harvests being transshipped; time and date of the request; and name and contact numbers for the person making the request.

(i) Applicability. The vessel operator who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel from a clearing officer and provide the following information: date, time, and location of clearance; vessel name and ADF&G and IPHC numbers; homeport; Federal Fisheries Permit number; IFQ permit numbers; registered buyer permit number; IFQ cardholder name; date, time, and location of landing; areas fished and estimated weight of harvests by species; and registered buyer's signature.

7. In § 679.7, paragraph (f)(14) is revised to read as follows:

§ 679.7 Prohibitions.

(14) Violate any other provision under this part.

8. In § 679.40, paragraph (a)(6)(i) is revised to read as follows:

§ 679.40 Sablefish and halibut QS.

(6) (i) Application form. The Application period for QS ended on July 15, 1994.

As of that date, the Request for QS Application form replaces the QS Application form as the means by which the Administrator, RAM, reviews and makes initial administrative determinations on requests for initial allocations of QS. A Request for QS Application must contain the following: Information identifying the individual, representative of a deceased fisherman's estate, corporation or partnership, or dissolved corporation or partnership making the request; contact numbers; vessel identification, length overall, and purchase date; and information on any vessel leasing arrangement pertinent to the claim of eligibility.

9. In § 679.41, paragraphs (h)(2) and (k) are revised to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

(2) IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section.

(k) Survivorship transfer privileges.— (1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.

10. In § 679.42, paragraph (j)(6) is added to read as follows:

**§ 679.42 Limitations on the use of QS and IFQ.**

\* \* \* \* \*

(j) \* \* \*

(6) A corporation or partnership, except for a publicly held corporation, that receives an initial allocation of QS assigned to categories B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

\* \* \* \* \*

11. In § 679.43, paragraph (c) is revised to read as follows:

**§ 679.43 Determinations and appeals.**

\* \* \* \* \*

(c) *Submission of appeals.* Appeals must be in writing and must be submitted to the Office of Administrative Appeals, P. O. Box 21668, Juneau, AK 99802 or delivered to Federal Building, 709 West 9th St., Room 801, Juneau, Alaska. Appeals may be transmitted by facsimile to (907) 586-9361. Additional information about appeals may be obtained by calling (907) 586-7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website <http://www.fakr.noaa.gov>.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 001114320-0320-01; I.D. 080400B]

RIN 0648-AN01

**Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements; Alaska Commercial Operator's Annual Report**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues a proposed rule to require groundfish motherships and catcher/processors to submit to the State of Alaska, Department of Fish & Game (ADF&G), an annual Commercial Operator's Annual Report (COAR). The COAR provides information on exvessel

and first wholesale values for statewide finfish and shellfish products. The State of Alaska currently requires shoreside processors to submit this information to ADF&G. This proposed rule is necessary to extend these requirements to all groundfish processing sectors off Alaska in order to provide for equivalent annual product value information and for a consistent time series of information. This proposed rule is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Comments must be received by January 16, 2001.

**ADDRESSES:** Comments on the proposed rule may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, Alaska, and marked Attn: Lori Gravel. Hand- or courier-delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Send comments on the collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to the Administrator, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7228 or [patsy.bearden@noaa.gov](mailto:patsy.bearden@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone (EEZ) off Alaska in accordance with the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). The North Pacific Fishery Management Council (Council) prepared the FMPs under authority of the Magnuson-Stevens Act. Regulations implementing the FMPs at 50 CFR part 679 and subpart H of 50 CFR part 600 govern fishing by U.S. vessels. Recordkeeping and reporting requirements appear at 50 CFR 679.5.

Catcher/processors and motherships operating in the EEZ off Alaska represent a significant part of the total capacity of groundfish processors in the

BSAI and GOA and account for a substantial part of the total landings each year, but currently are not required to supply groundfish product value information. In February 1999, the Council requested that NMFS collect exvessel and first wholesale value data for fish and shellfish products from motherships and catcher/processors through the COAR. Currently, shoreside processors and stationary floating processors are required to submit the COAR annually under title 5 of the Alaska Administrative Code (AAC), chapter 39.130. The information submitted in the COAR is protected by Alaska State confidentiality statute AS 16.05.815.

NMFS proposes to require federally permitted motherships and catcher/processors to complete and submit the Alaska COAR on an annual basis. Combining these data from motherships and catcher/processors with the information from shoreside processors and stationary floating processors would yield equivalent annual product value information for all processing sectors and would provide a consistent time series of information. NMFS could use this information to more efficiently manage groundfish resources. NMFS and the State of Alaska would coordinate the use of the information generated by the COAR.

The expected result of expanding the COAR's collection of information would be an enhanced socioeconomic database that NMFS could use to more accurately measure economic and socioeconomic impacts and to prepare economic analyses of proposed or existing management measures. It would provide detailed (and consistent) data on production, prices, and product forms that NMFS would use to respond to requests for economic information from Federal and state management agencies, the fishing industry, and the general public. NMFS would also use the COAR data in analyses it prepares in compliance with the mandates of Executive Order 12866, the Magnuson-Stevens Act, including national standards 2, 4, 7 and 8, the American Fisheries Act (to monitor and report to Congress on the effects and efficacy of the new groundfish management programs), and the Regulatory Flexibility Act.

Additionally, the database would be used in the annual NMFS Stock Assessment and Fishery Evaluation documents for the groundfish fisheries of the BSAI and GOA, in annual Federal publications on the value of U.S. commercial fisheries, and in periodic reports that describe the fisheries.